

SEP 27 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TYRONE EARL WALTON,

Plaintiff - Appellant,

v.

STANLEY CZERNIAK; et al.,

Defendants - Appellees,

and

DON MILLS; et al.,

Defendants.

No. 04-35573

D.C. No. CV-03-00065-GMK

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Oregon
Garr M. King, District Judge, Presiding

Submitted September 12, 2005^{**}

Before: REINHARDT, RYMER, and HAWKINS, Circuit Judges.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Oregon state prisoner Tyrone Earl Walton appeals pro se the district court's order denying his motion to reconsider its order dismissing his 42 U.S.C. § 1983 action against prison officials for failure to exhaust administrative remedies pursuant to 42 U.S.C. § 1997e(a).¹ We review a district court's denial of a motion to reconsider for an abuse of discretion, *see Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 883 (9th Cir. 2000), and we affirm.

The district court did not abuse its discretion by denying Walton's request for reconsideration because he failed to demonstrate newly discovered evidence, manifest injustice, an intervening change in controlling law, or any other basis for relief from judgment. *See School Dist. No. 1J, Multnomah County v. ACandS, Inc.*, Or., 5 F.3d 1255, 1263 (9th Cir. 1993).

AFFIRMED.

¹ Because Walton did not file a notice of appeal within 30 days of the underlying judgment dismissing his section 1983 action and did not file a timely tolling motion, this court has limited the scope of Walton's appeal to the denial of his motion to reconsider.